



Contents lists available at ScienceDirect

# Journal of Forensic and Legal Medicine

journal homepage: [www.elsevier.com/jflm](http://www.elsevier.com/jflm)



## Clinical Practice

# Trends in the Mental Health Act Review Tribunals: A Welsh experience 2004–2008

V.M. Aziz MBBCH MRCPsych (Consultant Psychiatrist)\*

Cwm Taff NHS Trust, St Tydfil's Hospital, Merthyr Tydfil, CF47 0SJ, UK

## ARTICLE INFO

### Article history:

Received 7 September 2008

Accepted 30 March 2009

Available online 29 April 2009

### Keywords:

Mental Health Act  
Tribunals  
Wales

## ABSTRACT

**Aims and method:** This study aims at identifying any local trend in the appeal process and to determine if we are complying with the MHA 1983 and the Code of Practice by reviewing all the appeals to Mental Health Review Tribunals in a psychiatric hospital in South Wales for the period from 2004 to 2008.

**Results:** The total numbers of sections and appeals remain steady over the years. Men are slightly more detained than women mainly under Sections 2 and 3 of the MH Act 1983. The main diagnoses for detention were: bipolar affective disorder, schizophrenia and psychosis. 95% of cases had appeals and 5% referrals. A hearing was held in 52% of cases ( $n = 60$ ), the RMO discharged 38% of patients and the patient withdrew appeal in 10% of cases. 95% of cases were British White ethnicity. Single men tended to appeal more than women 68% vs. 32%. There was no observed trend in the result of the appeals and the proportions of appeal discharged by the hearing remained unchanged. The results of the appeals were not associated with gender, ethnicity, marital status, age or the type of section involved. The patients who were previously detained tend to appeal more, i.e. the more number of detentions, the more number of appeals. In only 12% of cases who had the hearings, the appeal was successful and the patients were discharged from their sections.

**Clinical implications:** The study shows steady volume of sections and appeals and the appeals are no more likely to result in discharge. The amendments of the Act 2007 also attract an increase in the appeal process especially in relation to the Community Treatment Orders and the Deprivation of Liberty. The use of both the Act and the Mental Capacity Act 2005 will increase workload for all involved practitioners.

© 2009 Elsevier Ltd and Faculty of Forensic and Legal Medicine. All rights reserved.

## 1. Introduction

The recent times has seen the start of implementing the new amendments of The Mental Health Act 1983 (the Act) after long times of debates and consultations. The guiding principles of the Act states that people to whom the Act applies should be discharged from detention as soon as it is clear that their application is no longer justified. Most detained patients have the right to appeal against their detention both to the managers of the hospital and to a mental health review tribunal. Therefore, there was a prediction that the number of tribunal hearings would increase. In a systematic review, Hotopf et al.<sup>1</sup> found a 63% increase in the admission rate under the Act and this is mainly accounted for by changes in the use of Part II of the Act in particular Sections 2 and 3. The Department of Health data showed that numbers of compulsory admissions almost doubled in the ten years up to 1996 and the proportion of psychiatric admissions that involved admission under the Mental Health Act increased from 7% to 12%.<sup>2</sup> Lelliott and Audini<sup>4</sup> reviewed the data collected by the

Department Of Health and reported 32% increase in the rate of formal detention in hospital under part II of the Act. Data from the Information Centre<sup>6</sup> show a slight decline in numbers of detentions and admissions under the Mental Health Act after 1998, followed by a further increase to an all time high in the year 2005–2006. This shows an increase in detentions and off course an increase in the appeal process. However, there is no more recent data available. Several studies have found that black and patients from ethnic minority are disproportionately detained under the Act.<sup>3,7</sup>

This study aims at identifying any local trend in the appeal process and to determine if we are complying with the MHA 1983 and the Code of Practice by reviewing all the appeals to Mental Health Review Tribunals in a psychiatric hospital in South Wales from 2004 to 2008.

## 2. Method

Data was collected from the local Mental Health Act office from 2004 to 2008. We studied the number and type of sections, number of appeals, and percentage of sections that go to appeal, the result of the appeals and the proportion of appeals that result in discharge from the restrictions of the Mental Health Act. Demographic

\* Tel.: +44 01685726327.

E-mail address: [victoraziz@doctors.org.uk](mailto:victoraziz@doctors.org.uk)

data were collected for all patients who were detained during 2004–2008 including: age, gender, marital status and ethnicity. Graphs were obtained by Microsoft Excel (see Figs. 1 and 2).

### 3. Results

116 patients were detained between 2004 and 2008. Fifty six percent ( $n = 65$ ) were male and forty four percent ( $n = 51$ ) were females. All these patients were subject to the care plan approach. Also, all patients received patient's rights leaflets. The age groups of the patients ranged from 18 to 90 years old with peak detention at age range 21–50 years old (77%). Ethnicity: 97% ( $n = 113$ ) of patients were White/British, 1% White/Irish and 2% White/Euro-pean. Men are slightly more detained than women mainly under Sections 2 and 3. We have been providing an interpreter in all cases when one is required. We have been providing patients rights leaflet in all cases in the language of their choice. The main diagnoses for detention were: bipolar affective disorder, schizophrenia and psychosis. Other diagnoses include: dementia, depression with psychotic symptoms, personality disorder, drug induced psychosis, mental impairment with behavioural problem, somatoform pain disorder. A diagnosis was not established in 24 patients. Single men tended to appeal more than women 68% vs. 32%. There was no observed trend in the result of the appeals and the proportions of appeal discharged by the hearing remained unchanged. The results of the appeals were not associated with gender, ethnicity, marital status, age or the type of section involved. The patients who were previously detained tend to appeal more, i.e. the more number of detentions, the more number of appeals. 95% of cases ( $n = 110$ ) were appeals and 5% ( $n = 6$ ) were referrals. A hearing was held in 52% of cases ( $n = 60$ ), the RMO discharged 38% of patients and the patient withdrew appeal in 10% of cases. In 95% of cases the hearing was held within 7 days for Section 2 and 8 weeks for Section 3. Only 12% of patients who had the hearings were discharged from their sections by the appeal process. One patient discharged back to prison – to be reconvened for further information. The RMO discharged 38% of patients as it was clear that their application is no longer justified. There is no individual difference between the patients discharged by the RMO and those went through the appeal process. The only differences were the diagnosis and the improvement in the mental state, e.g. in 24 patients no diagnosis was established (21%). Table 1 shows the Number of previous detentions/appeals on admission (pre-year of detention), and Table 2 shows the type of sections.

### 4. Discussion

The main findings of this study are that there has been a steady increase in the number of sections and appeals over the last four/five years. This has been accompanied by an increase in the proportion of these sections that are heard at an appeal. Having said this,

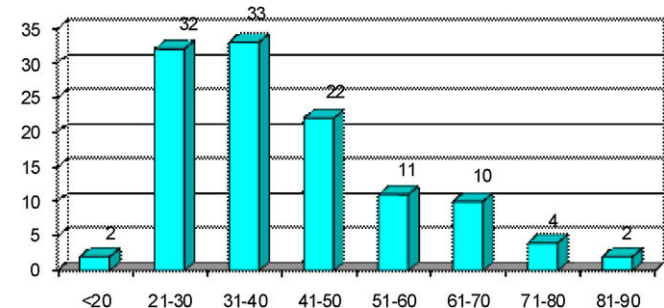


Fig. 1. Age group.

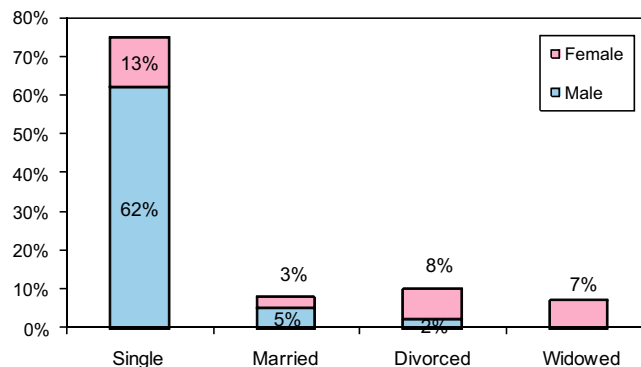


Fig. 2. Tribunal held marital status of patients.

Table 1

The number of previous detentions/appeals on admission (pre-year of detention).

	Detentions	Appeals
1	18 (42)	44 (41)
2	13 (17)	1 (6)
3	9 (12)	1 (5)
4	14 (6)	0 (3)
5	4 (10)	1 (2)
6	1 (4)	0 (1)
7	0 (1)	0 (1)

Table 2

The type of sections.

Section no.	Amount	Section no.	Amount
S2	43 (37%)	S37	1 (1%)
S3	64 (55%)	S37/41	4 (3%)
S7	1 (1%)	S47	1 (1%)
S25	1 (1%)	N/D	1 (1%)

there has been no trend in the result of appeals. In particular, the proportion of appeals discharged at hearings has not changed substantially. No associations were found between the results of appeals and any demographic variables, including ethnicity. In only 7% of cases who had the hearings, the appeal was successful and the patients were discharged from their sections. The above findings indicate a difference in the use of the MHA between Wales and England and it contradicts earlier studies, which have shown an increase in number of formal admissions.<sup>1,9</sup> The increases in proportion of those that are detained that appeal to and are heard by the tribunals are in line with Wall et al. study.<sup>8</sup> The finding of increase in the number of tribunals not resulting in any change in the proportions of detained patients who are discharged by tribunal is also in keeping with data from Webster et al.<sup>10</sup> The discharges by the appeal process are the same as shown by the<sup>5</sup> (12% vs. 8.8–13.5% across different areas of the country). Our study did not reveal any association between the result of the hearing and ethnicity. The peak age for detention in our study was 20–50 years old but the Act was used in all adult groups. However, men tend to be detained more and appeal more than women and this is consistent with previous studies. The study reflects a local Welsh experience in the use of the Act. This is reflected in the very limited number of people from ethnic minorities. There was also variation in the marital states for those patients who appealed, e.g. single (male = 62%, female = 13%); married (male = 5%, female = 3%); divorced (male = 2%, female = 8%); and widow (male = 1%, female = 7%) (see Table 3).

Our local Welsh experience shows a full compliance with the Act and its Code of practice. Also, it shows a steady number of

**Table 3**

The type of sections.

Section no.	Amount	Section no.	Amount
S2	43 (37%)	S37	1 (1%)
S3	64 (55%)	S37/41	4 (3%)
S7	1 (1%)	S47	1 (1%)
S25	1 (1%)	N/D	1 (1%)

detentions and appeals compared to England. This reflects the variability in the use of the Act across England and Wales. A study that collates the information about the use of the Act from all over the UK is needed to show the true reflection of the Act and its appeal process. The amendments of the Act 2007 also attract an increase in the appeal process especially in relation to the Community Treatment Orders and the Deprivation of Liberty. The use of both the Act and the Mental Capacity Act 2005 will increase workload for all involved practitioners.

### Conflict of Interest

None declared.

### Funding

None.

### Ethical approval

R & D and Audit Departments obtained.

### References

- Hotopf M, Wessely S, Churchill R, Wall S. Changing patterns in the use of the Mental Health Act 1983: England 1984–96. *British Journal of Psychiatry* 2000;**176**:479–84.
- Department Of Health. Inpatients formally detained in hospitals under the Mental Health Act 1983 and other legislations. London: Department of Health; 1998.
- Audini B, Lelliott P. Age, gender and ethnicity of those detained under Part II of the Mental Health Act 1983. *British Journal of Psychiatry* 2002;**180**:222–6.
- Lelliott P, Audini B. Trends in the use of Part II of the Mental Health Act in seven English local authority areas. *British Journal of Psychiatry* 2003;**182**(January): 68–70.
- Department of Health. Mental Health review Tribunal report April 1999 to March 2001. London: Department of Health; 2002.
- Information Centre. Inpatients formally detained in hospitals under the Mental health Act 1983 and other legislation, NHS trusts, Care trusts, primary care trusts and independent hospitals, England 1995–1996 to 2005–2006. London: Information Centre, Mental Health Statistics; 2007.
- Singh SP, Greenwood N, White S, Churchill R. Ethnicity and the Mental Health Act 1983. *British Journal of Psychiatry* 2007;**191**(August):99–105.
- Wall et al. Work of mental health review tribunals is increasing faster than detentions. *British Medical Journal* 1999;**319**:920.
- Wessely S, Wall S, Hotopf M, Churchill R. Trends in the use of the Mental Health Act 1983: England 1984–96. *British Medical Journal* 1999;**318**:1520–1.
- Webster L, Dean C, Kessel N. Effect of the 1983 Mental Health Act on management of psychiatric patients. *British Medical Journal* 1987;**295**(6612): 1529–32.